

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

HMB INTERESTS, LLC

CIVIL ACTION NO. 08-cv-1542

VERSUS

JUDGE WALTER

CHESAPEAKE LOUISIANA, LP, ET AL

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Plaintiffs filed this proposed class action suit in state court, and Defendants removed it based on the provisions of the Class Action Fairness Act. Defendants soon filed a motion to dismiss. Plaintiffs promptly filed a motion to remand. Both of those motions remain pending.

Defendants recently filed a Motion to Strike Class Action (Doc. 91) on the grounds that Plaintiffs did not file a motion to certify the class within the 90-days contemplated by Local Rule 23.1(B). Plaintiffs responded with a Motion for Extension of Time (Doc. 95) in which they ask that they be allowed to file a motion to certify within 60 days after the motion to remand and motion to dismiss are acted upon.

The 90-day provision of the local rule often has its place, but the rule provides that the period may be extended on motion for good cause. The court finds that there is good cause in this setting. Defendants have not articulated any actual prejudice associated with the delay in filing a motion to certify. Also, the court ordinarily prefers to address preliminary issues, especially those that may result in a remand or dismissal of the entire case, before it

tackles a motion to certify a class, which often presents difficult issues that are time consuming for the court and expensive for the parties to litigate. Even if the motion to certify had been filed early in the case, the court would likely await the resolution of the preliminary motions before it addressed the certification issue. There is no bar to the court considering the class certification issue before the preliminary motions are resolved, but the court has discretion to proceed in that manner in appropriate circumstances. Such circumstances are present in this case. Accordingly, the **Motion to Strike Class Action (Doc. 91)** is **denied**. The **Motion for Extension of Time (Doc. 95)** is **granted** as follows: Plaintiffs are granted an extension of time to file their motion to certify class until 60 days after the court has acted on both the motion to remand and the motion to dismiss.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 27th day of May, 2010.



MARK L. HORNSBY
UNITED STATES MAGISTRATE JUDGE